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9 *And Sergeant Smith*

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 MARK CLIFFORD SYKES, Sui Juris,

13 Plaintiff,

14 vs.

15 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT OF CLARK COUNTY
NEVADA, et al.,

16 Defendants.

CASE NO.: 2:21-cv-01479-RFB-DJA

~~PROPOSED~~ DISCOVERY PLAN AND
SCHEDULING ORDER

(Special Scheduling Review Requested)¹

17
18 Plaintiff Mark Clifford Sykes (“Plaintiff”) in Proper Person along with Defendants Las
19 Vegas Metropolitan Police Department (“LVMPD”) and Sergeant Smith (collectively “LVMPD
20 Defendants”), by and through their counsel, Kaempfer Crowell, pursuant to Federal Rule of Civil
21 Procedure 26(f) and Local Rule of Practice 26-1, request the Court enter the following proposed
22 Discovery Plan and Scheduling Order:

23
24 ¹ Special scheduling review is requested for the reasons stated below in Section 7.

1 1. Meeting: Plaintiff and counsel for LVMPD Defendants met and conferred
2 telephonically on October 13, 2023. LVMPD Defendants' counsel prepared this proposed
3 Discovery Plan and forwarded it to Plaintiff via electronic mail on October 16, 2023. Plaintiff
4 responded to the e-mail on November 28, 2023, and signed with his electronic signature this
5 proposed Discovery Plan.

6 2. Pre-Discovery Disclosures: The parties shall make their initial disclosures of
7 information required by Fed. R. Civ. P. 26 (a)(1) by **Monday, October 30, 2023**. No changes
8 need be made to the form or requirements of such disclosures.

9 3. Areas of Discovery: Discovery will be conducted on all issues including, but not
10 limited to, all claims and defenses within the scope of the pleadings consistent with the Federal
11 Rules of Civil Procedure and the Local Rules of this district.

12 4. Discovery Cut-Off Date: Discovery shall take 180 days, measured from October
13 13, 2023, which is the date Plaintiff and counsel for the LVMPD Defendants met and conferred
14 regarding a discovery plan. Accordingly, discovery must be commenced in time to be completed
15 by **Wednesday, April 10, 2024**.

16 5. LR 26-1(b)(3) Disclosures (Experts): Disclosure of experts shall proceed
17 according to LR 26-1(b)(3), except that:

18 [i] The disclosure of experts and expert reports shall occur on **Friday,**
19 **February 9, 2024**, which is sixty (60) days before the discovery cut-off date; and

20 [ii] The disclosure of rebuttal experts and their reports shall occur on
21 **Monday, March 11, 2024**, which is thirty (30) days after the initial disclosure of experts.

22 6. Other Items:

23 a. Amending the Pleadings and Adding Parties: The parties shall have until
24 **Thursday, January 11, 2024**, to file any motions to amend the pleadings or to add parties. This

1 is ninety (90) days before the discovery cut-off date and does not exceed the outside limit LR 26-
2 1(b)(2) presumptively sets of not less than ninety (90) days prior to the close of discovery for
3 filing such motions.

4 b. Dispositive Motions: The parties shall have until **Friday, May 10, 2024**,
5 to file dispositive motion(s). This is 30 days after the discovery cut-off date and does not exceed
6 the outside limit of 30 days following the discovery cut-off date that LR 26-1(b)(4)
7 presumptively sets for filing dispositive motions.

8 c. Settlement. The parties have not discussed settlement at this time.

9 d. Pretrial Order: The joint pretrial order shall be filed by **Monday, June 10,**
10 **2024**, which is not later than 30 days after the date set for filing dispositive motions in this case.
11 In the event a timely dispositive motion is filed, the deadline to submit the joint pretrial order
12 shall be suspended until 30 days after the decision on the dispositive motion or further order of
13 the Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) shall be made in the joint pretrial
14 order.

15 e. Alternative Dispute Resolution: The parties do not believe that mediation
16 will be beneficial at this time.

17 f. Alternative Forms of Case Disposition: The parties do not agree on
18 consenting to trial by a magistrate judgment under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 or
19 use of the Short Trial Program pursuant to General Order 2013-01.

20 g. Later Appearing Parties: A copy of this discovery plan and scheduling
21 order shall be served on any person served after it is entered or, if additional defendants should
22 appear, within five (5) days of their first appearance. This discovery plan and scheduling order
23 shall apply to such later appearing parties, unless a stipulation of the parties is approved by the
24 Court or the Court, on motion for good cause shown, orders otherwise.

h. Extensions or Modifications of the Discovery Plan and Scheduling Order:

Pursuant to LR 26-3, a motion or stipulation to extend any date set by the discovery plan, scheduling order, or other order, must in addition to satisfying the requirements of LR IA 6-1, be supported by a showing of good cause for the extension; be received by the court no later than twenty-one (21) days before the expiration of the subject deadline; and any request within twenty-one (21) days of the subject deadline must be supported by a showing of good cause. Any request made after the expiration of the subject deadline will not be granted unless the movant also demonstrates that the failure to act was the result of excusable neglect. The motion or stipulation to extend a discovery deadline or to reopen discovery must include:

- (a) A statement specifying the discovery completed;
- (b) A specific description of the discovery that remains to be completed;
- (c) The reasons by the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and
- (d) A proposed schedule for completing all remaining discovery.

i. Electronically Stored Information: The LVMPD Defendants intend to present evidence in electronic format to jurors for the purposes of jury deliberations. Such information will be provided in an electronic format compatible with the court's electronic jury evidence display system. *See* LR 26-1(b)(9).

7. Special Scheduling Review Requested: Plaintiff and LVMPD Defendants request that deadlines in this case—including the discovery cut-off date—be measured from the day that Plaintiff and LVMPD Defendants conducted their telephonic FRCP 26(f) conference rather than the date that LVMPD Defendants first made an appearance. The reason for this request is that Plaintiff initially did not want to begin a discovery period for this lawsuit until all proper defendants are served and the Court rules on his pending Motion to Amend, (ECF No. 51),

1 which seeks to add the Federal Bureau of Investigation as a defendant rather than the National
 2 Crime Information Center ("NCIC"). Similarly, the position of the United States Attorney's
 3 Office is that it cannot participate in discovery on behalf of NCIC because NCIC is not a person
 4 or entity subject to liability and the proper party who oversees NCIC (the Federal Bureau of
 5 Investigation) is not named as a defendant in the currently operative pleading.

6 After several months passed without discovery commencing, LVMPD Defendants
 7 initiated an FRCP 26(f) conference with Plaintiff in an attempt to begin moving the case forward
 8 at least with regard to LVMPD Defendants and Plaintiff.²

9
 10 DATED this 28th day of October, 2023.

DATED this 28th day of November, 2023.

11 KAEMPFER CROWELL

PLAINTIFF

12 By: /s/ Lyssa S. Anderson

By: /s/ Sykes, Mark-C/agent

13 Lyssa S. Anderson
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 Kristopher J. Kalkowski
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***Las Vegas Metropolitan Police
 Department and Sergeant Smith***

For: Mark Clifford Sykes
 P.O. Box # 91614
 Henderson, NV 89009

Plaintiff, appearing pro se

17 **IT IS SO ORDERED.**

18 DATED: 11/29/2023

19 

20 Daniel J. Albregts
 United States Magistrate Judge

21
 22 ² There is one Motion currently pending before the Court: the Motion to Set Aside Default filed
 23 by the United States Attorney's Office, (ECF No. 47). The Court's Order, (ECF No. 54), denied
 24 Plaintiff's motions to amend, (ECF Nos. 51, 52), without prejudice and held that "Plaintiff's
 proposed amendment is futile because his claims against the FBI would be barred by the doctrine
 of sovereign immunity."

CERTIFICATE OF SERVICE

I certify that I am an employee of KAEMPFER CROWELL, and that on the date below, I caused the foregoing **PROPOSED DISCOVERY PLAN AND SCHEDULING ORDER** to be served via CM/ECF and/or First Class Mail (where indicated) addressed to the following:

Mark Clifford Sykes
P.O. Box # 91614
Henderson, NV 89009

windsorsykes@yahoo.com
(Via CM/ECF)

Plaintiff, Pro Se

Jason M. Frierson
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Attorneys for the United States of America

DATED this 28th day of November, 2023.

/s/ Linda Gilman
an employee of Kaempfer Crowell